

REMARKS

The Examiner provisionally rejects claims 1, 12, 17-18 and 19-20 for non-statutory obviousness-type double patenting over claims 1, 12, 22-23 and 24-25 of co-pending application 10/769,403 in view of Marpe. The Examiner also rejects claims 1, 12, 17-18 and 19-20 for non-statutory obviousness-type double patenting over claims 1, 12, 23-24 and 25-26 of co-pending application 10/677,886 in view of Marpe. Although for the record Applicants respectfully disagree with the substance of these rejections, in the interest of moving the prosecution forward, Applicants submit herewith appropriate terminal disclaimers concerning the co-pending applications.

The Examiner objects to the title and the omission of the heading "Detailed Description of the Invention." Applicants amend the specification herein to address these rejections.

The Examiner rejects claim 14 under 35 U.S.C. § 112, second paragraph, based on a lack of antecedent basis for the limitation "the step of investigating." Claim 14 is amended herein to correct this problem.

The Examiner rejects claim 17-18 under 35 U.S.C. § 101. Claims 17-18 are amended herein to address this issue.

The Examiner rejects claims 1-20 under 35 U.S.C. § 102(a) as being anticipated by Marpe. The authors of Marpe are the three inventors of the instant patent application and a fourth co-author, Gabi Bittermann. Submitted herewith are declarations of the inventors indicating that there is no contribution by the co-author Gabi Bittermann to the subject matter which is currently claimed. The cited reference, in so far as it may teach the claimed subject matter, was the work of the inventors herein, and not the efforts or contributions of the co-author of the reference who is not an inventor. As such, the reference is clearly not

available as 102(a) art because the teaching of the publication is not of another, and therefore could not have been "before the invention thereof by the applicant."

Applicants believe that all of the rejections have been overcome, and respectfully request allowance of the pending claims. The Examiner is invited to call applicants' attorney at 650-474-8400 if he believes it would be helpful.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey Brill", with a long horizontal flourish extending to the right.

Jeffrey Brill
Registration No. 51,198

Customer No. 22862